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IN THE

Supreme Court of the United States

OCTOBER TERM, 1967.

No. 200

BLUE CAB COMPANY AND VILLAGE CAB COMPANY,
Petitioners,

vs.

NATIONAL LABOR RELATIONS BOARD,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

REPLY BRIEF OF PETITIONER.

CHARLES L. BUCY,
RICHARD L. MARCUS,
JOSEPH E. HERMAN,
PAUL LEVENFELD,
Attorneys for Petitioners.

GALL, LANE & POWELL,
1250 Connecticut Avenue,
Washington, D. C. 20036.

SEYFARTH, SHAW, FAIRWEATHER & GERALDSON,
111 West Jackson Boulevard,
Chicago, Illinois 60604.

STACKLER, LEVENFELD, LEVY & STACKLER,
11 South La Salle Street,
Chicago, Illinois 60603.

THE GUNTHORP-WARREN PRINTING COMPANY, CHICAGO

INDEX.

PAGE

Argument 1

CITATIONS.

Cases.

Marshall Field & Company v. National Labor Relations Board, 318 U. S. 253 (1943) 2

National Labor Relations Board v. Seven-Up Bottling Co. of Miami, 344 U. S. 345 (1943) 2

Statutes.

National Labor Relations Act, as amended (61 Stat. 136, 29 U. S. C. 151 et seq.).

Section 8(a) (5) 2

Section 10(e) 2

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ARGUMENT.

This Reply Brief is filed pursuant to Rule 24(4) of the Rules of the Supreme Court of the United States. Its scope is limited to responding to an argument not previously raised in the course of these proceedings, to wit, that Petitioners are seeking to raise an issue not properly raised before the Labor Board by objecting to the Board's finding that Petitioners' unilateral reduction in meter rates violated Section 8(a)(5) of the National Labor Relations Act as amended, 29 U. S. C. §§ 151, 159(a)(5). (Brief of Respondent Union, page 7).

In making this argument, the Union fails to note that in exception No. 21(7), Petitioners specifically excepted to

the Trial Examiner's finding "that by unilaterally changing the terms and conditions of employment of their driver-employees, Respondents* violated Section 8(a)(5) and (1) of the Act (T. E., p. 21, lines 1-4)." Similarly, in exception 20(b), Petitioners argued that "The Trial Examiner erred in recommending that the Respondents cease and desist from . . . making unilateral changes in the terms and conditions of employment without consulting the designated bargaining agent and that Respondents restore the status quo ante July 1, 1963 . . ." Clearly, these exceptions were specific enough "to apprise the Board that petitioner intended to press the question now presented." *Marshall Field & Company* v. *N. L. R. B.*, 318 U. S. 253, 255 (1943). See also *N. L. R. B.* v. *Seven-Up Bottling Co. of Miami*, 344 U. S. 345 (1953). Accordingly, this Court is not "precluded by § 160(c)" of the Act from considering the issue raised in the second part of the Petition (Brief of Respondent Union, pages 8-9).

Respectfully submitted,

CHARLES L. BUCY,
RICHARD L. MARCUS,
JOSEPH E. HERMAN,
PAUL LEVENFELD,
Attorneys for Petitioners.

GALL, LANE & POWELL,
1250 Connecticut Avenue,
Washington, D. C. 20036.

SEYFARTH, SHAW, FAIRWEATHER & GERALDSON,
111 West Jackson Boulevard,
Chicago, Illinois 60604.

STACKLER, LEVENFELD, LEVY & STACKLER,
11 South La Salle Street,
Chicago, Illinois 60603.

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* Petitioner herein was Respondent in the proceedings before the National Labor Relations Board.